

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

APR 29 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FRED GRAVES,

Petitioner - Appellant,

v.

BRIAN HAWS, Warden,

Respondent - Appellee.

No. 08-15088

D.C. No. CV-07-01227-GEB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, District Judge, Presiding

Submitted April 13, 2009<sup>\*\*</sup>

Before: GRABER, GOULD, and BEA, Circuit Judges.

California state prisoner Fred Graves appeals pro se from the district court's judgment dismissing as untimely his 28 U.S.C. § 2254 habeas corpus petition. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Graves contends that he is entitled to statutory tolling during the times when his applications for state collateral review were pending, and equitable tolling during the time he was in administrative segregation. Even if Graves were entitled to tolling for these times, his federal habeas petition was still filed after the expiration of the one-year limitations period set forth in 28 U.S.C. § 2244(d)(1). *See Shelby v. Bartlett*, 391 F.3d 1061, 1065-66 (9th Cir. 2004).

**AFFIRMED.**